IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 4744 OF 2005

Kailas Sitaram Adagale. ... Applicant.
Versus.
The State of Maharashtra. ... Respondent.

Ms.Pranali P.Kakade for the Applicant.
Shri R.Y.Mirza, A.P.P. for the Respondent.

CORAM : ABHAY S. OKA, J.

DATED : 17th August, 2005.

P.C.:

1. Heard the learned Counsel for the Applicant and the learned A.P.P. for the State.

2. The offence alleged against the Applicant is under sections 326, 307, 506(1) of the Indian Penal Code. The Applicant has been arrested on 31st January 2005.

3. The case of the prosecution appears to be that the Applicant has thrown acid on the face of the Complainant. The case of the prosecution appears to be that the Complainant was not responding to the Applicant who had fallen in love with the Complainant. The medical certificate reveals that the Complainant has suffered burns on her face, neck, hands and knees. The burns are classified as deep to superficial. It is not in dispute that investigation has been completed and the charge sheet has been filed.

4. The learned Advocate for the Applicant submitted

that section 307 IPC cannot be applied as there was no intention on the part of the Applicant to kill the Complainant. The learned Advocate for the Applicant submitted that the Applicant is in custody for last more than six months and considering the relative young age of the Applicant, he deserves to be enlarged on bail.

5. The learned A.P.P. submitted that considering the gravity of the offence, the Applicant cannot be enlarged on bail. The Complainant has suffered injuries on her face and a very serious offence has been committed by the Applicant against a woman.

6. I have considered the submissions. On the last date, this Application was adjourned to enable the learned A.P.P. to produce the report of the Chemical Analyser. The learned A.P.P. stated today that inspite of reminders issued to the concerned authority, the report is not yet received. The F.I.R. filed by the complainant discloses that the Applicant was repeatedly expressing that he had fallen in love with the Complainant and the Complainant was not responding. The allegation against the Applicant is that he had thrown acid on the face of the Complainant as a result of which the Complainant has suffered serious injuries on her face and other parts of the body. There is some substance in the submission of the Applicant that the applicability of section 307 appears to be doubtful at

this stage. However, it is a matter of evidence at the time of trial.

7. The Applicant is in custody for last more than six months. As stated earlier, the investigation is already over. The Sessions Court rejected the Application for bail on the ground that the Applicant may tamper with evidence. However, this aspect can be taken care of by imposing conditions. In my view, a case is made out for enlarging the Applicant on bail subject to stringent conditions. To ensure that the Applicant does not create any trouble for the Complainant, the Applicant will have to stay away from the city of Pune till conclusion of the trial.

8. Hence the following order is passed:

(i) The Applicant shall be enlarged on bail in connection with C.R.No.46 of 2005 of the Yerwada Police Station, subject to furnishing a personal bond of Rs.15,000/- with one or two local sureties in the like amount.

(ii) The bail is granted subject to condition that after the Applicant is enlarged on bail, he will not enter the area falling within the jurisdiction of the Municipal Corporation of the city of Pune, except for attending to the dates

fixed in the trial. This order will be given effect only after the Applicant furnishes to the Investigating officer the detailed address of the place of residence and his telephone number, if any, where the Applicant proposes to stay after he is enlarged on bail.

(iii) The Bail is granted subject to condition that the Applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

(iv) The Applicant shall cooperate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicant to delay the trial may be a ground for cancellation of bail.

(v) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

(vi) Application is disposed of in above terms.

Judge.